

**PRETRIAL ORDER REQUIREMENTS**  
**U.S. District Judge Rebecca F. Doherty**

**1. Claims and Responses [In Outline Form]**

Plaintiff(s) shall identify each and every claim that he or she asserts as to each Defendant, with regard to each claim, shall identify: (a) the law that applies to such claim; (b) the remedy sought from that Defendant; and (c) the law supporting the availability of the requested remedy from that Defendant.

Defendant(s) shall provide a response to each claim that has been asserted, identifying the following information: (a) any challenge to the legal basis for each claim; (b) all affirmative defenses asserted in response to each claim and the legal bases therefor, (c) whether the dispute as to each claim is one of law or fact; and (d) the law supporting the responses.

When jurisprudence is cited in support of any claim, remedy, defense, or allegation discussed in this section, the citation shall include point cites.

**FAILURE TO INCLUDE A CLAIM OR DEFENSE IN THIS ORDER WILL BE DEEMED AN ABANDONMENT OF THE CLAIM OR DEFENSE.**

**2. Procedural History and Posture**

The parties shall set out the procedural history of the case, including (a) *disposition* of motions filed, and ruling (*i.e.*, granted or denied); (b) a list of any *pending* motions, and document number; and (c) the status of venue objections or waivers. To the extent that written venue waivers (including those addressed by Lexecon, Inc. v. Milberg, Weiss, Bershad, Hynes & Lerach, 523 U.S. 26, 118 S.Ct. 956, 140 L.Ed.2d 62 (1998)) have not previously been submitted into the record, such written waivers must be included in the PreTrial Order.

**3. Issues of Law, if any remain**

Identify any TRUE issues of LAW that remain unresolved as of the pretrial conference.

**4. Any Remaining Anticipated Evidentiary Issues**

Each party shall identify any remaining anticipated evidentiary issues which are unresolved as of the pretrial conference.

**5. Thumbnail Sketch of Facts**

Each party shall give a BRIEF (*i.e.*, two or three paragraphs only) thumbnail sketch of the **specific facts** that support its claim(s) as to each Defendant or defense(s) of each Defendant.

**6. Witnesses**

Each party shall set out a **will call**<sup>1</sup> witness list, which conforms to the privacy concerns addressed at FED. R. CIV. P. 5.2. Additionally, with regard to each witness, the list shall: (a) indicate whether the witnesses will be testifying live, by deposition transcript, or by deposition video; (b) include a brief description of the testimony of each witness, and (c) identify the purpose for which the testimony is being presented.

Counsel should be aware that the Court discourages the use of duplicative witnesses.

**7. Exhibits**

Each party shall provide a **will use**<sup>2</sup> exhibit list, which conforms with the privacy concerns addressed at FED. R. CIV. P. 5.2.

The Court will expect that the parties have complied with this Court's Scheduling Order: Pilot Bellwether Program (First Trial) (Rec. Doc. 2359) setting a deadline of January 2, 2014, for identifying and exchanging the documents intended to be used at trial.

**8. Objections to Witnesses and Exhibits**

List here any objections to the witnesses or exhibits of another party, including those objections contained in FED. R. CIV. P. 26(a)(3), *except objections as to relevance*. Exhibits will be *deemed authentic* unless an authenticity objection is explicitly made.

The Court will attempt to rule on as many objections as possible during the pretrial conference. With regard to exhibits, the Court will notify the parties of those exhibits that must be produced to the Court prior to the pretrial conference to facilitate the Court's consideration.

Any objections not specifically stated in the Pretrial Order, except as to relevance as noted above, are deemed waived unless excused by the court for good cause shown.

**9. Stipulations**

The Court encourages counsel to stipulate to all possible uncontested, legally relevant facts, as well as legal issues, in the interests of reducing costs and delays at trial. List here any matters to which the parties can stipulate and include those written stipulations, signed by each involved party's counsel. Counsel shall state whether the stipulations are to be read to the jury and when; therefore, the stipulations **MUST** be in writing.

---

<sup>1</sup> The Court defines "will call" witnesses as those whom a party intends to call in its case-in-chief.

<sup>2</sup> The Court defines "will use" exhibits as those that a party intends to submit into evidence in its case-in-chief.

#### **10. Jury Instructions/Jury Interrogatories**

JOINT jury instructions and JOINT jury interrogatories shall be submitted as an attachment to the PreTrial Order. Additionally, the Court requires an electronic version of these documents. The parties must: (1) provide the Court with a CD-ROM, or submit an email attachment to the Actos law clerk, containing all jury instructions and jury interrogatories in WordPerfect format, and (2) provide a copy of same to the Special Masters in Word format. Jury instructions taken from the most recent edition of the Fifth Circuit Pattern Instructions need not be reproduced; rather, the parties may identify those instructions by number only.

If there is a dispute as to an instruction or interrogatory, the parties are to agree to the extent possible, and annotate the disagreement with proper page-specific citations to the jurisprudence being relied upon to support the party's position. If the dispute is one of fact to be proved at trial, the fact at issue shall be identified in an annotation and the language for an instruction supporting each factual scenario shall be attached, noting its application to that fact if found. **Parties are to be prepared to discuss disputes as to Jury Instructions and Interrogatories at the pretrial conference.**

#### **11. Voir Dire**

Proposed voir dire questions specific to a party or issue, if any, should accompany this order. Counsel shall not duplicate this Court's boilerplate voir dire, which already have been provided.

#### **12. Estimated Length of Trial**

The parties shall indicate the expected duration of trial, which includes jury deliberations and time for selecting a jury.

#### **13. Court and Court Reporter Materials**

**Counsel are directed to Scheduling Order: Pilot Bellwether Program (First Trial) (Rec. Doc. 2359) for applicable deadlines.**

**Bench Books.** The parties shall submit **two** bench books to Chambers, FOR THE EXCLUSIVE USE of the trial judge and her law clerk. *Please Note:* Exhibits contained in the *bench books* will not be submitted into evidence. Counsel must have **original exhibits (or agreed-to copies)** for submission into the record.

**Glossary.** The real time glossary shall be delivered **to the court reporter**. The glossary shall contain all key word indices from **all** depositions taken in the case, all witness lists, exhibit lists and copies of all expert reports. See example of a Real Time Glossary posted on our website at <http://www.lawd.uscourts.gov/>.

**Scanned Electronic Exhibits.** A CD-ROM containing all exhibits must be delivered to the Courtroom Deputy. Please refer to the "Guidelines for Submission of Exhibits on CD ROM"

posted on our website, at <http://www.lawd.uscourts.gov/>, or obtain a copy from the Clerk of Court's office.

If you have any further questions not answered in the sources cited above, please contact the Electronic Courtroom Coordinator for the Western District of Louisiana or the Judge's Courtroom Deputy, Christine Guidry, at (337) 593-5000.

#### **14. Counsel Affirmations**

The Pretrial Order shall contain the following affirmations:

- a. Trial counsel shall affirm, absent permission otherwise: (1) they will download their trial documents and exhibits to their personal equipment (or to an outside party's equipment hired for these purposes) and counsel will meet with the courtroom technology coordinator no later than seven days before trial, noting the scheduled date; or, (2) counsel will provide a CD-ROM containing the documents to the Courtroom Deputy and counsel will meet with the courtroom technology coordinator no later than seven days before trial, noting the scheduled date; or (3) counsel will affirm he or she is familiar with the Visual Presenter.
- b. The parties shall affirm they have complied with the supplementation requirements of FED. R. Civ. P. 26(e).
- c. Counsel shall affirm their understanding that failure to comply with any requirement of the Federal Rules of Civil Procedure, the Scheduling Order: Pilot Bellwether Program (First Trial) (Rec. Doc. 2359), or other orders of this court, will risk the imposition of the sanctions provided for by the Federal Rules of Civil Procedure.
- d. Counsel shall affirm their need, if any, for handicap provisions for themselves or any witness, which are provided by the court.
- e. Counsel shall affirm they, timely, will provide the real time glossary to the court reporter.